

# STEPTOE & JOHNSON LLP

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ATTORNEYS AT LAW

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1330 CONNECTICUT AVENUE, N.W.  
WASHINGTON, D.C. 20036-1795

PHOENIX, ARIZONA  
TWO RENAISSANCE SQUARE

TELEPHONE: (602) 257-5200  
FACSIMILE: (602) 257-5299

ALFRED M. MAMLET  
(202) 429-6205

(202) 429-3000

FACSIMILE: (202) 429-3902  
TELEX: 99-2503

STEPTOE & JOHNSON INTERNATIONAL  
AFFILIATE IN MOSCOW, RUSSIA

TELEPHONE: (011-7-501) 258-5250  
FACSIMILE: (011-7-501) 258-5251

October 27, 1995

## VIA HAND DELIVERY

## EX PARTE FILING

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, DC 20554.

RECEIVED

OCT 27 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Re: **Telefónica Larga Distancia de Puerto Rico, Inc.**  
**IB Docket No. 95-22, RM-8355, RM-8392**

Dear Mr. Caton:

On October 26, 1995, Encarnita Catalán-Marchán, Colleen A. Sechrest and I, on behalf of Telefónica Larga Distancia de Puerto Rico, Inc. ("TLD"), met with Brian J. Carter, of Commissioner Barrett's office, and Mary P. McManus, of Commissioner Ness' office, to discuss matters related to the above-captioned proceeding. We discussed TLD's comments in the above-captioned proceedings and shared the attached presentation with them.

Since the meeting concluded late in the day, it was not possible to make this filing yesterday. If you have any questions, please do not hesitate to contact me.

Respectfully submitted,



Alfred M. Mamlet  
Counsel for Telefónica Larga Distancia  
de Puerto Rico, Inc.

/srh-m

Enclosures

cc: Brian J. Carter  
Mary P. McManus

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# **FOREIGN AFFILIATED-CARRIER NPRM**

# OVERVIEW

- **LAW**
  - ▶ **JURISDICTION**
- **ECONOMICS**
  - ▶ **TRADE POLICY**
  - ▶ **SAFEGUARDS**
  - ▶ **COMPETITION**
- **DO THE RIGHT THING**



# **FCC LACKS JURISDICTION**

- **NO STATUTORY BASIS FOR FCC JURISDICTION OVER TRADE UNDER SECTION 214**
  - ▶ **SECTION 301 AND TELECOMMUNICATIONS TRADE ACT GIVE AUTHORITY TO USTR**
  - ▶ **CONGRESS CREATED AUTHORITY ON TRADE UNDER SECTIONS 35, 308(C)**
  - ▶ **CONGRESS REJECTED BILL TO GIVE FCC AUTHORITY UNDER 214**
  - ▶ **CONGRESS MAY GIVE FCC AUTHORITY UNDER SECTION 310**



## **FCC LACKS JURISDICTION (2)**

- **FCC AND EXECUTIVE BRANCH HAVE PREVIOUSLY CONCLUDED FCC LACKS JURISDICTION**
  - ▶ **1980 CABLE DECISION ACKNOWLEDGED LACK OF JURISDICTION**
  - ▶ **1987 NPRM REJECTED PROPOSED APPROACH**
  - ▶ **1995 EXECUTIVE BRANCH COMMENTS DO NOT PROVIDE FCC WITH BASIS FOR GOING FORWARD**
- **AMERICATEL AND INTERNATIONAL RESALE DECISIONS DO NOT SUPPORT JURISDICTION**

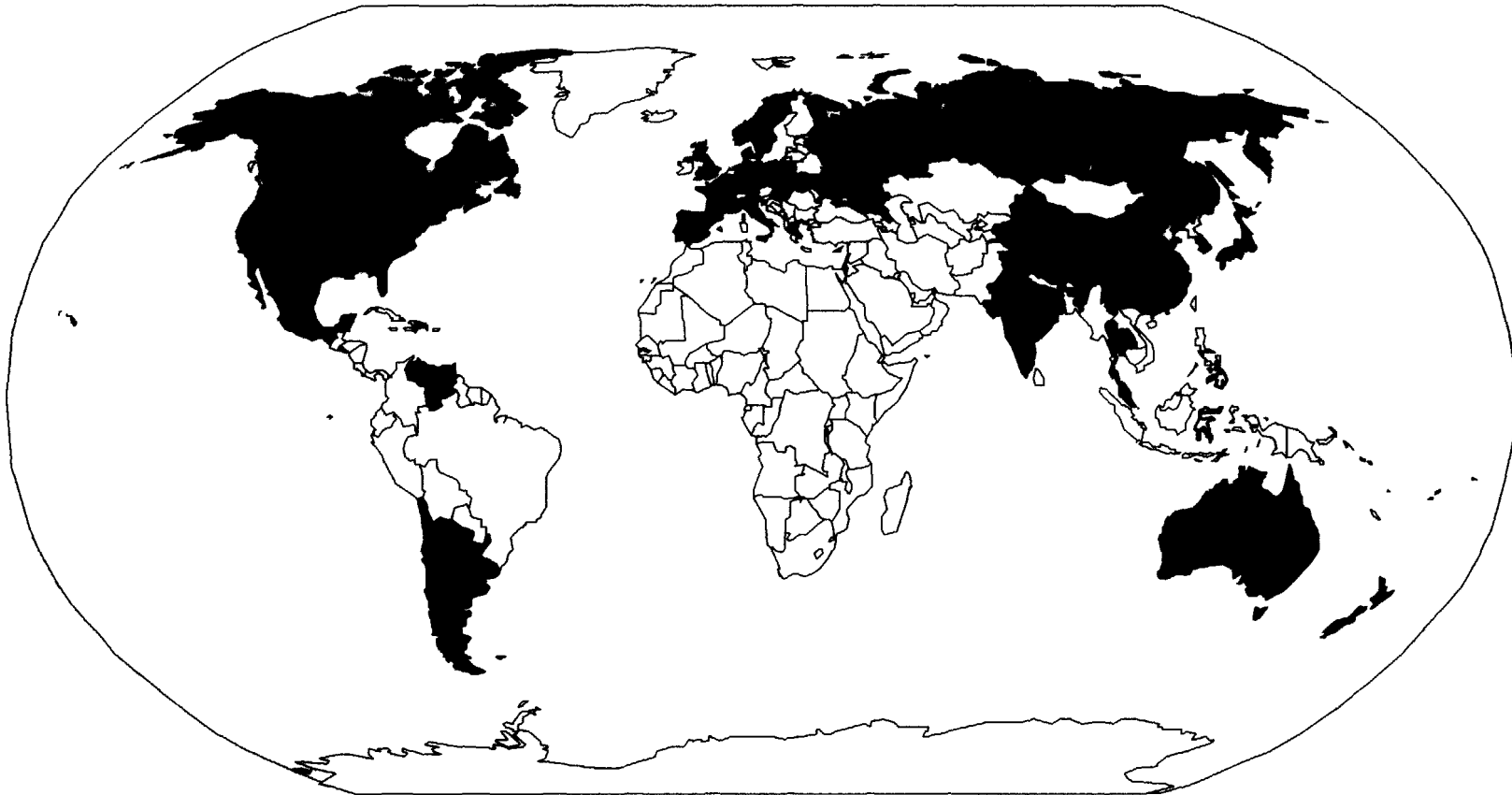


## **PROPOSED RULE WOULD NOT PROMOTE OPEN ENTRY**

- **TELECOM LIBERALIZATION NOT AMENABLE  
TO TRADE INFLUENCE**
- **FCC DOES NOT HAVE ENOUGH CARROTS  
AND STICKS**
- **PROPOSED RULE WOULD INVITE  
RETALIATION**



# **COUNTRIES WHERE U.S. CARRIERS HAVE INVESTMENTS IN PROVIDERS OF TELECOMMUNICATIONS SERVICES**





# **U.S.-SPAIN BILATERAL TELECOMMUNICATIONS INVESTMENTS**

- **U.S. INVESTMENTS IN SPAIN**

- ▶ AIRTOUCH IS LEAD PARTICIPANT IN AIRTEL CONSORTIUM THAT PAID \$654 MILLION FOR PCS LICENSE
- ▶ US WEST AND TIME WARNER HAVE INVESTED \$2.6 BILLION IN CABLE TV FRANCHISE
- ▶ AT&T INVESTED \$300 MILLION IN TWO EQUIPMENT MANUFACTURING PLANTS
- ▶ AT&T AND MOTOROLA ARE MAJOR EQUIPMENT SUPPLIERS

- **SPANISH INVESTMENTS IN U.S.**

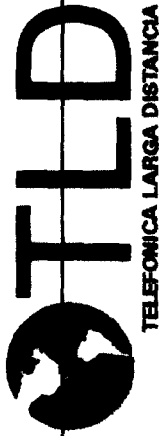
- ▶ TI PURCHASED 79% OF TLD FOR \$112 MILLION
- ▶ TI OWNS 14.9% OF TUPR



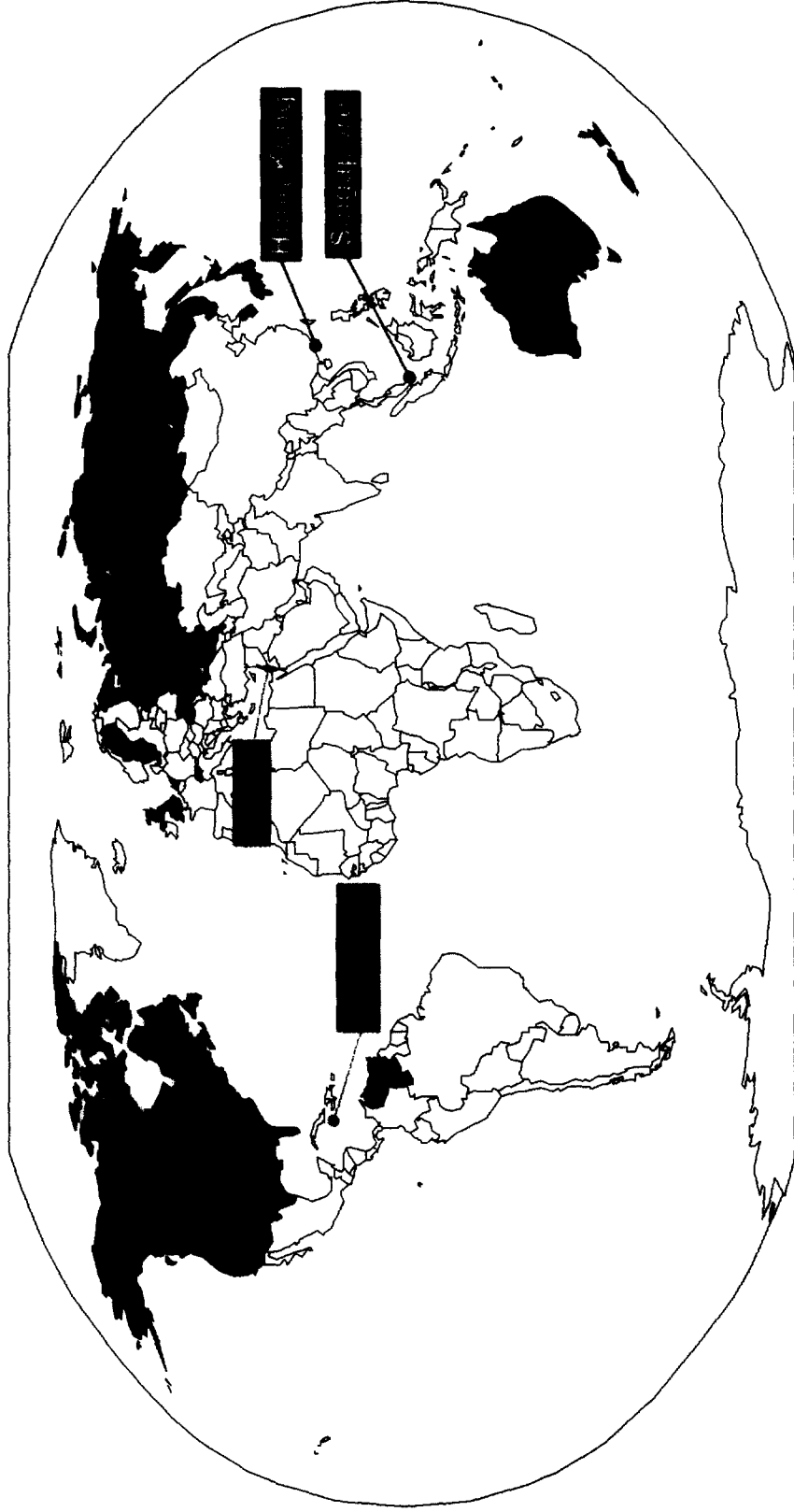


## **PROPOSED RULE WOULD BE DOUBLE STANDARD**

- **EXCLUDES US INVESTMENTS IN FOREIGN CARRIERS**
- **EXCLUDES WORLDPARTNERS**



# AT&T INTERNATIONAL AFFILIATES





## COMPARISON OF AT&T AND TLD AFFILIATED TRAFFIC (1993)

<u>COUNTRY</u>	<u>AT&amp;T AFFILIATED TRAFFIC (MINUTES)</u>	<u>TLD AFFILIATED TRAFFIC (MINUTES)</u>
CANADA	1,458,241,019	0
UKRAINE	7,637,906	0
VENEZUELA	55,712,871	637,262
AUSTRALIA	76,186,061	0
JAPAN	223,838,531	0
HONG KONG	72,319,236	0
NETHERLANDS	68,801,141	0
NEW ZEALAND	14,292,866	0
SINGAPORE	31,884,215	0
SOUTH KOREA	129,370,509	0
SWEDEN	39,101,383	0
SWITZERLAND	63,789,791	0
ARGENTINA	0	169,585
CHILE	0	88,208
SPAIN	<u>0</u>	<u>622,699</u>
TOTAL AFFILIATED TRAFFIC	2,241,175,529	1,517,754
ALL INTERNATIONAL TRAFFIC	7,234,974,628	22,881,498

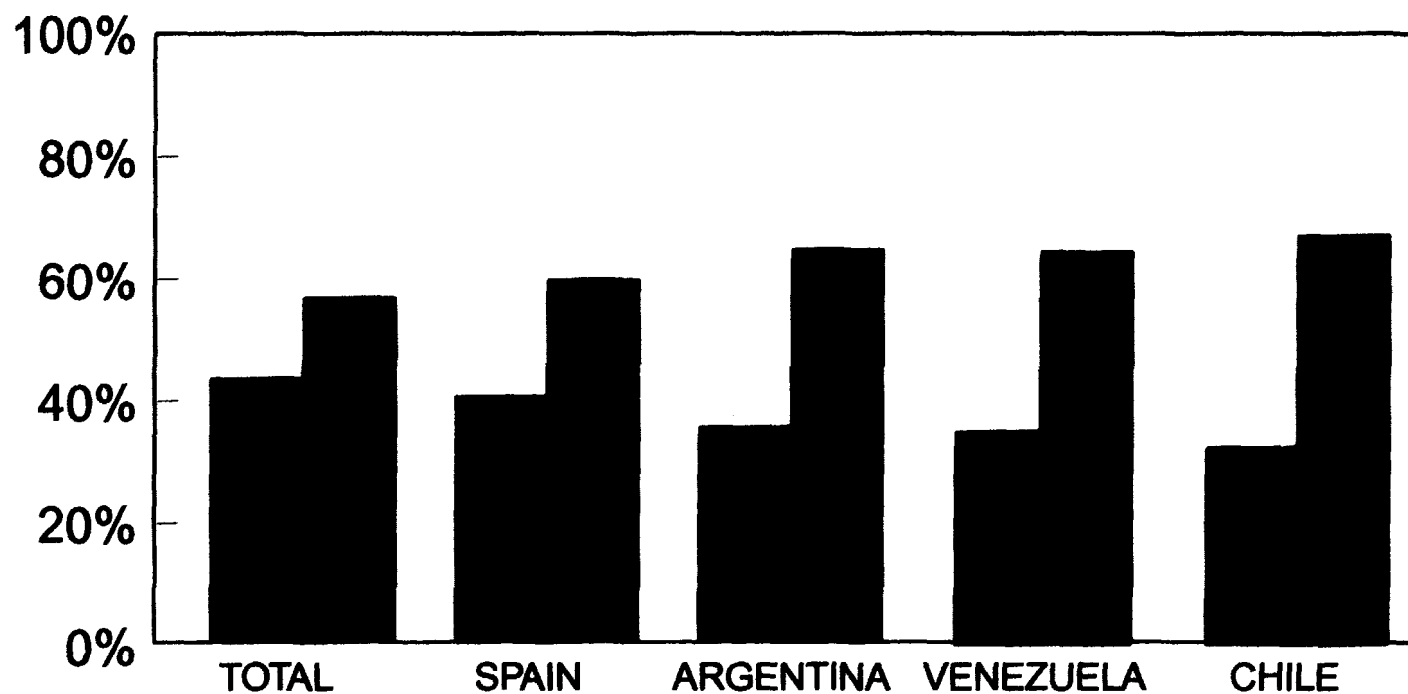


## **CURRENT SAFEGUARDS ARE SUFFICIENT**

- **COMMISSION ALREADY HAS ELABORATE SET OF SAFEGUARDS THAT WORK WELL**
- **NO EVIDENCE THAT SAFEGUARDS HAVE FAILED**
- **AT&T'S THREE CONCERNS ARE HYPOTHETICAL AND COVERED BY FCC RULES**
  - ▶ **DISPROPORTIONATE RETURN TRAFFIC**
  - ▶ **DISCRIMINATORY INTERCONNECTIONS**
  - ▶ **ACCOUNTING RATE PRICE SQUEEZE**



## AT&T AND TLD MARKET SHARE (PUERTO RICO 1993)



■ TLD  
■ AT&T



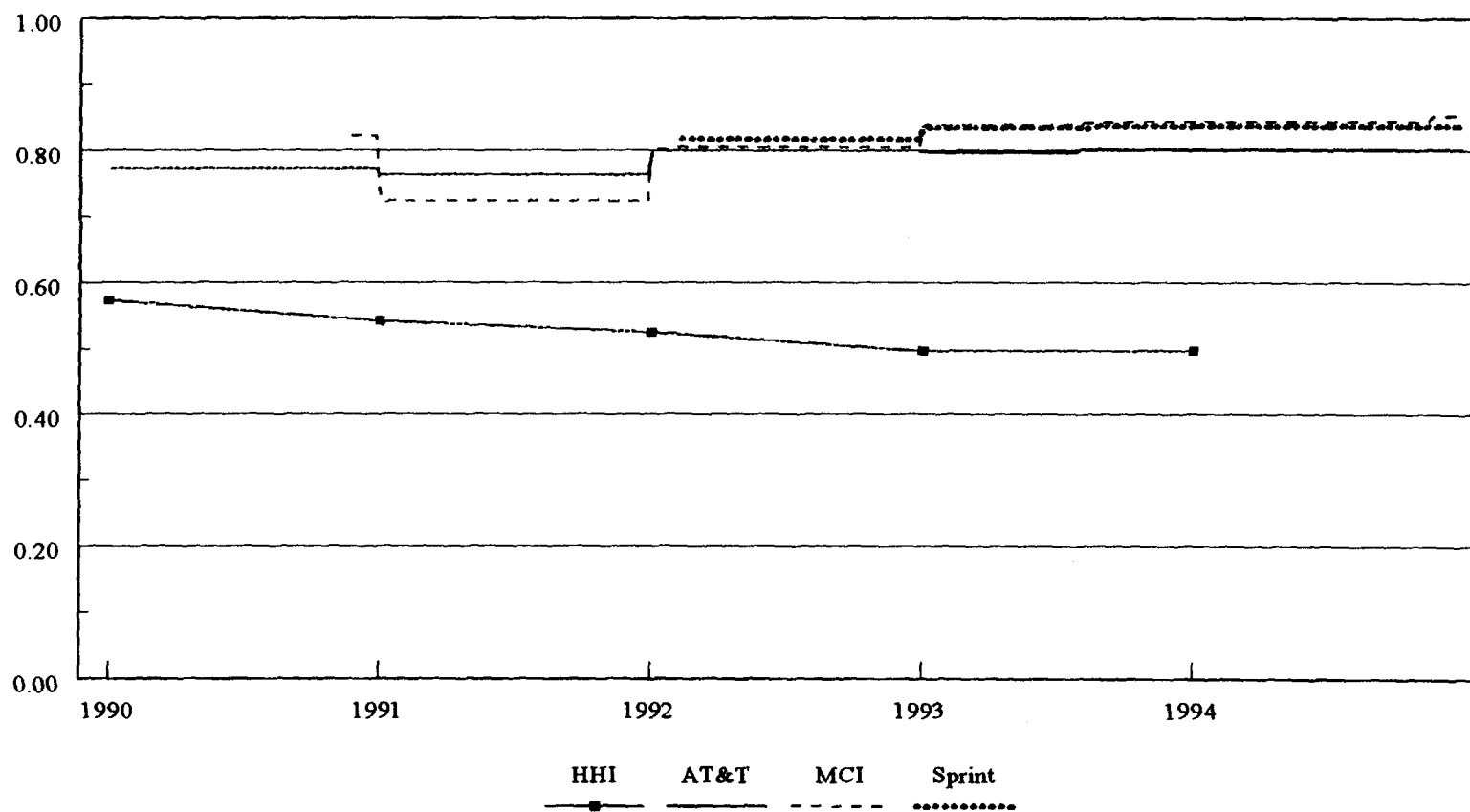
## **COMPETITION IN INTERNATIONAL MARKETS**

- **CONCENTRATION INDICES ARE HIGH, BUT DECLINING. PROFIT MARGINS WOULD DECLINE IF MARKET WERE COMPETITIVE**
- **MARGINS HAVE INCREASED DESPITE DECLINES IN CONCENTRATION**
- **MARGINS ARE NOT LOWER IN MARKETS WITH LOWER CONCENTRATIONS**
- **PRICE-COST MARGINS EXCEED 0.70, WHICH IS A HIGHER LEVEL THAN IN OTHER HIGHLY CONCENTRATED INDUSTRIES**
- **FACILITIES-BASED COMPETITION BY NEW ENTRANTS COULD MAKE THESE MARKETS MORE COMPETITIVE**



## IMTS PRICE-COST MARGINS FOR LONG-DISTANCE CALLS FROM U.S. TO UNITED KINGDOM

Price Cost Margin and HHI





TELEFONICA LARGA DISTANCIA

## HHIs AND STANDARD IMTS PRICE-COST MARGINS (1994)

### Price Cost Margins

HHI

0.42

0.55

0.50

0.50

0.43

0.40

0.52

0.56





## **EVEN LARGEST U.S. CARRIERS NEED ACCESS TO FOREIGN CAPITAL TO COMPETE AGAINST AT&T**

<b>CARRIER</b>	<b>1993</b>
	<b>TOTAL TOLL REVENUES</b>
<b>AT&amp;T</b>	<b>\$37,166,000,000</b>
<b>MCI</b>	<b>\$11,715,000,000</b>
<b>SPRINT</b>	<b>\$ 6,805,000,000</b>
<b>LDDS</b>	<b>\$ 3,138,000,000</b>
<b>C&amp;W</b>	<b>\$ 654,000,000</b>



## DO THE RIGHT THING

- MAINTAIN CURRENT POLICY
- LIMIT APPLICABILITY OF ANY NEW RULE TO AFFILIATED ROUTES
  - ▶ BEST CASE FOR JURISDICTION
  - ▶ SAFEGUARD U.S. MARKET
  - ▶ PROMOTES COMPETITION